

Montgomery County, Maryland

MODERATELY PRICED DWELLING UNIT (MPDU) RENTAL PROGRAM



www.montgomerycountymd.gov/mpdu

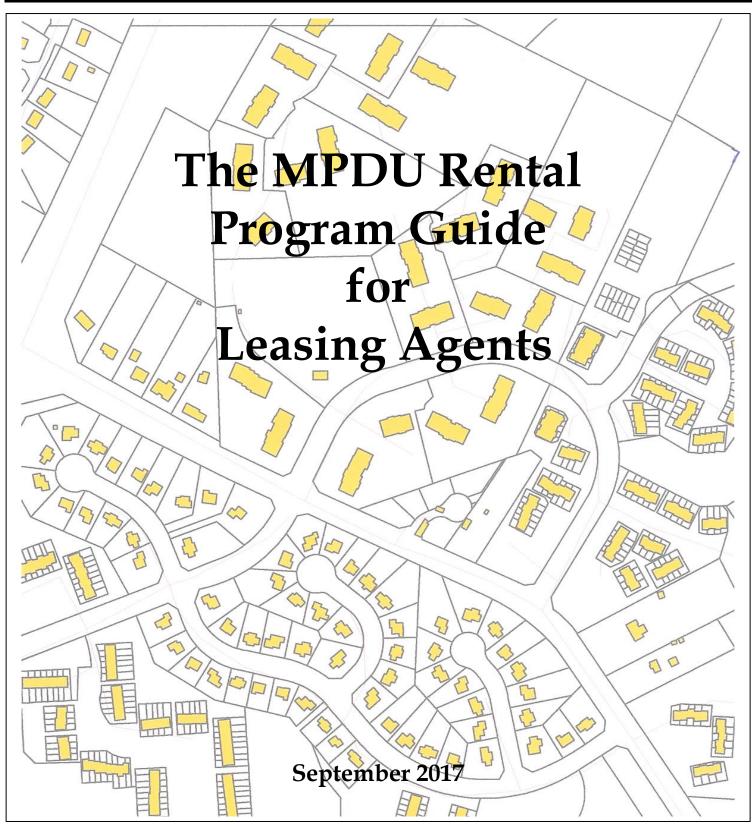


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IMPORTANT!

The most current income limits and forms may be found at: http://www.montgomerycountymd.gov/DHCA/housing/singlefamily/mpdu/devbuild.html

Contact Information

Please refer to this guide for most of the information you will need regarding the MPDU rental program. For additional information on topics not covered or special situations, please contact the MPDU office at 240-777-0311 or at MPDU.INTAKE@montgomerycountymd.gov

Forms and reports may be sent to:

MPDU Program
Department of Housing and Community Affairs
1401 Rockville Pike, Fourth Floor
Rockville, MD 20852
240-777-0311 (phone) / 240-777-3691 (fax)
MPDU.INTAKE@montgomerycountymd.gov

SECTION 1 - BACKGROUND, RENTS AND FEES

The MPDU Program

Montgomery County's Moderately Priced Housing Law, which was enacted in 1974, requires that all new development in the County with 20 or more units contain a certain percentage of affordable units. This requirement applies to both for-sale and rental developments. The law originally required that the units would remain MPDUs for a period of 20 years. In 2005, the law was amended requiring the units to remain MPDUs for a period of 99 years.

A Partnership to Provide Affordable Housing

The rental process for MPDUs is a partnership between the Department of Housing and Community Affairs (DHCA or Department) and the rental complexes containing MPDUs.

The Leasing Agent's Role

The leasing agent is the primary on-site partner who helps DHCA to enforce the MPDU program rules. Through the normal rental application process, the leasing agent verifies a household's annual income and determines whether their annual income is below the maximum permitted under the program.

Additionally, the leasing agent must:

- Ensure that the household has as many members as number of bedrooms in the MPDU;
- Have the prospective tenants verify that they do not currently own or have not owned residential property within the past 5 years. A prospective tenant can ask that this requirement be waived by submitting a written request to DHCA explaining in detail the reasons for the request. Such request can be submitted by email to MPDU.INTAKE@montgomerycountymd.gov; and
- Require the that the MPDU apartment is the household's primary residence.

The leasing agent also re-certifies the household as eligible to live in the MPDU in subsequent years and maintains the records and submits the report required under the MPDU program. These roles are more fully discussed below.

Renting an MPDU apartment is a private transaction between the apartment complex and the household seeking to rent an MPDU. DHCA does not act as an intermediary, or involve itself in the process except in the rare case of a dispute between the two parties. The renting of MPDUs is on a "first come, first serve" basis; DHCA does not maintain a waiting or priority list of potential renters. A landlord may, but is not required to, maintain a waiting list for MPDUs. DHCA does not provide rental assistance to MPDU renters. Each MPDU renter must meet the same credit checks and income tests as other rental applicants, and must have the resources (which may include rental assistance from third parties, such as the Housing Opportunities Commission) to pay the monthly rent.

DHCA's Role

DHCA sets the initial rents, notifies complexes of the permissible annual rent increases, and provides training for property managers and leasing agents. In addition, DHCA visits each apartment complex as necessary to monitor continued compliance with the MPDU program rules, and to provide technical assistance and training to staff, as needed.

MPDU Rents for New Properties

The MPDU rents for properties when they became initially available for rent are included in the property's MPDU Offering Agreement (or Rental Agreement) which is signed by the Landlord and the County at the time the property is opened. A detailed explanation of the methodology for calculating the initial rents for new properties can be found online at

http://montgomerycountymd.gov/DHCA/Resources/Files/calculate_rentals_0217.pdf

Annual Rent Increases

- The initial MPDU rent for each unit is set by the MPDU Offering Agreement (or Rental Agreement) when the property is first opened. This initial rent cannot be increased until the unit has been occupied by a tenant for a period of 12 months.
- Each year, the tenant's rent can be increased by the **Voluntary Rent Guideline** percentage then in effect. The County Executive publishes the Voluntary Rent Guideline in February each year. The current and past voluntary rent guidelines can be found at http://montgomerycountymd.gov/DHCA/housing/landlordtenant/voluntary_rent_guideline.html.
- If a tenant receives a rent increase lower than the Voluntary Rent Guideline in one year, the tenant cannot receive a rent increase in excess of the Voluntary Rent Guideline the following year to "catch up." The MPDU's rent can, however, be raised to the maximum rental rate when the unit is vacated.
- A landlord can only issue one rent increase to any tenant in a 12 month period.
- Effective March 13, 2017, a tenant must receive a 90-day notice of a rent increase.

Fees - Application, Amenity, Parking and Other Fees

Application Fees

Under state law, a landlord may charge a prospective tenant a non-refundable application fee. However, if the application fee exceeds \$25.00, the landlord must return all but \$25.00 of the fee if no tenancy occurs, or be liable for twice the amount of the fee as a penalty. Questions about an application fee should be directed to the Office of Landlord-Tenant Affairs (OLTA) at 240-777-0311.

Amenity Fees

It is not permissible to charge an amenity fee to MPDU tenants.

Parking Fees

MPDU tenants cannot be charged a fee for non-structured parking. Structured parking, garage or other enclosed spaces may be offered as an option to the MPDU tenants at the monthly rate normally charged by the landlord.

Other Fees

MPDU tenants can be charged the monthly rate normally charged by the landlord for storage and pet fees, if applicable.

Properties Financed with Low Income Housing Tax Credits

Developers may fulfill their MPDU requirement through the construction of housing under federal, state, or other local governmental programs to assist low and moderate income families. When this is the case, the income limits, occupancy, reporting and other requirements of that particular housing program applies rather than the requirements set forth below.

SECTION 2 - ELIGIBILITY CRITERIA

Introduction

To be eligible to rent an MPDU, a person or household must meet certain basic eligibility criteria:

- the household's gross annual income must be below the current maximum rental income, based on household size; and
- must not currently own or have owned residential property within the past 5 years. An applicant can request a waiver of this particular requirement by submitting a written request to DHCA at MPDU.INTAKE@montgomerycountymd.gov, and
- the household must occupy the MPDU as its primary residence.

Certification and Recertification Process

Prospective and Renewing Tenants must:

- Complete Certification Form
- Submit most recent Federal tax return and W-2s for all adults
- Submit most recent pay stubs for all adults
- Submit additional documentation, if needed

Each adult prospective occupant for an MPDU must complete the Certification form and submit a tax return and paystub.

Total Household Income

A household must be income-eligible at the time of initial lease signing. For the purposes of qualifying under the MPDU program, a household's annual gross household income must be less than the annual maximum income permitted by the MPDU program (this maximum changes annually, usually around June 15 of each year). Income is defined as the gross income received annually from all sources by all wage earners in a household. Sources of income include, but are not limited to, the following:

- Wages and salary
- Child support
- Alimony
- Interest income from savings and checking accounts
- Dividends from stocks and bonds, and interest from certificates of deposit
- Social Security benefits
- Veterans Administration benefits
- Overtime pay
- Unemployment insurance benefits
- Bonus payments
- Pension and retirement payments
- Long-term Disability benefits
- Any other annuities or stipends received

Calculating Household Income

There are two methods to determine an individual's income from employment using an individual's paystubs.

Method 1 - Year-to-Date Earnings

Average the gross year-to-date earnings based through the year to date. This method cannot be used if the individual has not had the same employer since January of the current year.

Method 2 - Paystub Averaging

Average the gross incomes from the paystubs and multiply by the frequency of pay.

- Gross income includes vacation pay, sick pay, shift differential, commission, and overtime.
- Applicant may be able to prove that over-time and/or bonuses are unusual and not consistent.

- Tax returns are not used for wage and salary income verification although looked to for unearned income such as retirement benefits.
- For new employment, an individual can submit a Verification of Employment form from an employer.

Person does not file Taxes

A Verification of non-filing of a tax return is needed from any adult who indicates that they did not need to file taxes last year. This would occur when one of the applicants works and the other applicant indicates they do not work, such as non-married couples, friends, parent and adult child. An exception would be if the adult is 25 or younger and is a dependent of his or her parent. In that circumstance, it is unusual that the dependent is providing financial support to the household. An applicant can obtain a Verification of Non-Filing from the IRS at http://www.irs.gov/Individuals/Get-Transcript.

Social Security Benefits

A proof of benefits letter is required by adults over the age of 62 when they indicate they do not file taxes which can be obtained from the Social Security Administration. https://faq.ssa.gov/ics/support/kbanswer.asp?QuestionID=3705

HOC Voucher Holders and other Rental Assistance Programs

The HOC voucher program as well as other Rental Assistance Programs are perfect complements to the MPDU Program as the amount of rent covered by HOC or other rental assistance programs would probably not allow them to rent most market rate units in many areas of the County. Since a portion of the tenant's rent is subsidized and guaranteed, the landlord would only need to determine whether the household's income is sufficient to pay whatever their portion of the rent is, as well as utilities.

Minimum Income

The MPDU law states that DHCA may (as opposed to must for maximum income limits) set a minimum annual income for participation in the program. It further states that if a minimum is set, it must be set at the minimum annual income needed to qualify to make a rental payment for an MPDU after consultation with leasing agents. Therefore, if a rental complex determines that a household's income is sufficient to afford the MPDU rental payments, the MPDU office would approve a tenant's participation even though they do not meet the minimum income.

Maximum Income Limits

There are separate income limits depending whether the apartment complex is a garden apartment or a high-rise. A tenant who **recertifies** remains income eligible if the household's income does not exceed 130% of the current maximum rental income based on their family size.

<u>Example of Income Limits ONLY</u> – The Current Income Limits can be found at Need link.

	Garden Apartments (4 stories or less)		High Rise Apartments (5 story or more, elevator)	
Household Size	New Tenants	Renewing Tenants	New Tenants	Renewing Tenants
	Maximum Household Income*	130% of Maximum Household Income**	Maximum Household Income*	130% of Maximum Household Income**
1	\$ 49,500	\$ 64,350	\$ 53,500	\$ 69,550
2	\$ 57,000	\$ 74,100	\$ 61,000	\$ 79,300
3	\$ 64,000	\$ 83,200	\$ 69,000	\$ 89,700
4	\$ 71,000	\$ 92,300	\$ 76,500	\$ 99,450
5	\$ 76,500	\$ 99,450	\$ 82,500	\$ 107,250
6	\$82,500	\$107,250	\$88,500	\$115,050

Annual Income Re-Certifications

- MPDU tenants must be certified every year.
- MPDU tenants may continue to reside in their MPDU as long as they earn below 130% of the current maximum MPDU rental income based on their family size.
- The household size must still comply with household size requirements. A household may be required to vacate an MPDU if the number of persons in their household changes and they no longer qualify for that size unit.
- The MPDU Program does not prohibit a tenant from going month-to-month; however, an MPDU tenant cannot be charged a month-to-month premium.
- If the tenant fails to provide the re-certification information within 30 days, the landlord must issue the tenant a **60 day notice to vacate** the unit for failing to submit the recertification form and required documentation.
- If the tenant is no longer eligible due to income or household size, the landlord must issue the tenant a **90 day notice to vacate** the MPDU.

Month-to-Month Leases

The MPDU program does not prohibit a landlord from offering a tenant a month-to-month tenancy when renewing. However, a month-to-month premium cannot be charged.

Over-Income MPDU Tenants

Tenants Who Were Previously Income Qualified: The tenant must vacate the MPDU if, at the time of re-certification, the tenant's income exceeds by thirty percent (30%) the maximum eligible income necessary to qualify as an eligible person. The leasing agent must issue the tenant a 90 day notice to vacate the MPDU.

MPDU Tenant Fails to Recertify

If an MPDU tenant fails to provide the re-certification information within 30 days, the landlord must issue the tenant a 60 day notice to vacate the unit for failing to submit the recertification form and required documentation

Household Size and Bedroom Size

The MPDU program specifies the size of MPDU apartment a household of a particular size is eligible to rent. Federal income tax returns can be used as one method of reviewing a household's size. Households are only eligible to rent a unit with the appropriate number of bedrooms, as shown in the chart below:

Number of Persons in	Eligible Number of
Household	Bedrooms
1	1
2	1 or 2
3	2 or 3
4	2 or 3
5	3 or above

Only those persons listed on the lease may live in the MPDU. A household may be required to vacate an MPDU if the number of persons in their household changes. If members are added, the household may be eligible to move into a larger MPDU; if members move away, they may be required to move into a smaller unit (for example, in the case where a three-person household renting a three-bedroom unit becomes a two-person household; or a two-person household renting a two-bedroom unit becomes a one-person household).

SECTION 3 - FORMS AND REPORTS

Rental Forms

DHCA requires the following forms be completed. These forms are provided by the MPDU office:

- Certification/Re-Certification Form completed by prospective MPDU tenants and renewing MPDU tenants;
- MPDU Renter's Agreement completed and signed by the leasing agent and tenant each year; and
- MPDU Lease Addendum signed by MPDU tenants at time of initial leasing.

Renters Agreement Form

The Renters Agreement Form is a required form that must be signed by every renter of an MPDU. By signing this form, the renter acknowledges that they understand and accept the MPDU program's requirements. This form must be signed at the time the initial lease for the unit is signed. A new form must be signed upon each subsequent lease renewal.

The leasing agent <u>must</u> send the signed Renters Agreement Form to DHCA within 14 days of the date of initial lease ratification for an MPDU rental unit, and upon each lease renewal. Place a copy of this form in your files.

Lease Addendum

The MPDU regulations require the apartment complex to use the multi-family model lease approved by DHCA for all MPDUs. The lease agreements for MPDUs, other than those leased to the Housing Opportunities Commission or a designated nonprofit housing provider, must include the provisions listed below:

- 1. The tenant must occupy the unit as his or her primary place of residence and must not sublet the unit.
- 2. The tenant must provide income and household composition information to the apartment complex every year for re-verification purposes. The documents that must be provided are federal income tax forms for the last

- year, a copy of the two most recent pay stubs for all employed household members, and the current household composition.
- 3. The tenant must provide the re-certification information within 30 days of receiving the re-certification form from the complex. If the tenant fails to provide the re-certification information within the 30 day period the tenant must vacate the unit within 60 days of receiving notification from the complex that the re-certification form and required documentation was not received.
- 4. The tenant must vacate the MPDU if, at the time of re-certification, the tenant's income exceeds by thirty percent (30%) the maximum eligible income necessary to qualify as an eligible household. The leasing agent must take action necessary to have the tenant vacate the MPDU within 90 days of receiving information that the tenant's income exceeds the maximum permitted income limit. The leasing agent may substitute another unit with the same number of bedrooms for the existing MPDU and permit the tenant to occupy their present unit at a rent higher than the approved MPDU rent. However, a new covenant form must be recorded subjecting the substitute unit to the MPDU covenants.

MPDU Tenant Files

At a minimum, the following documents must be kept <u>on-site</u> for each MPDU tenant:

- a copy of the lease
- a copy of the MPDU Renters Agreement Form
- income verification form and back-up documentation

In addition, certain forms and reports must be sent to DHCA:

- the original signed MPDU Renters Agreement Form (to be sent within 14 days of each lease signing or renewal)
- a rent roll must be sent annually
- a copy of each annual rent increase letter sent to each MPDU tenant in the complex

Annual Report

Each year by April 30, the leasing agent must supply the information listed below to DHCA in a format acceptable to the Department:

- The number of MPDUs, by bedroom count and unit number, that are leased including units leased to HOC, and/or designated nonprofit housing corporations. Specifically note any units that are rented to non-income eligible households.
- For each MPDU, the tenant's name(s), household size, the dates of the lease and lease expiration, and the total annual household income as of the date of the lease.
- A notarized statement that to the best of the owner's (or leasing agent's) information and knowledge, the tenants who are leasing the MPDUs meet the eligibility criteria.

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